

SUMMARY ANALYSIS OF AMENDED BILL

Author: Ridley-Thomas Analyst: Gail Hall Bill Number: AB 2829
 Related Bills: See Prior Analysis Telephone: 845-6111 Amended Date: May 17, 2006
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Water's-Edge Election/Inverted Corporations

- ☒ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced February 24, 2006.
- ☐ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- ☐ AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended _____.
- ☒ FURTHER AMENDMENTS NECESSARY.
- ☐ DEPARTMENT POSITION CHANGED TO _____.
- ☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 24, 2006, STILL APPLIES.
- ☐ OTHER – See comments below.

SUMMARY

This bill would provide that certain foreign-based entities remain subject to California tax after a corporate restructuring.

SUMMARY OF AMENDMENTS

The May 17, 2006, amendments revised the bill as follows:

- Resolved the technical consideration discussed in the analysis of the bill as introduced February 24, 2006.
- Created a second Revenue and Taxation Code (R&TC) Section 25110: One for pre-existing law and one for the proposed law as described below:
 - The first section would contain pre-existing law and would apply to water's-edge taxpayers that are within the seven-year period during which a taxpayer may not terminate that election without the consent of the Franchise Tax Board.

Board Position:

☐ S ☐ NA ☐ NP
☐ SA ☐ O ☐ NAR
☐ N ☐ OUA ☒ PENDING

Legislative Director

Date

Brian Putler

5/22/06

- The second section would contain the provisions added by this bill and would apply to water's-edge elections made on or after January 1, 2006, and to water's-edge elections made prior to January 1, 2006, where taxpayers are beyond the seven-year period during which that election may not be terminated by the taxpayer.

Except for the discussion in this analysis, the remainder of the department's analysis of the bill as introduced on February 24, 2006, still applies.

POSITION

Pending.

ANALYSIS

TECHNICAL CONSIDERATIONS

It may be interpreted that the provisions added by this bill would only apply to water's-edge elections made on or after January 1, 2006, and not to water's-edge elections made prior to January 1, 2006, that are beyond the seven-year period during which that election may be terminated by the taxpayer. Attached Amendment 1 would resolve this consideration.

LEGISLATIVE STAFF CONTACT

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 2829
As Amended May 17, 2006

AMENDMENT 1

On page 8, after line 28, insert:

or that made a water's-edge election prior to January 1, 2006, and that election may be terminated for that taxable year without consent of the Franchise Tax Board pursuant to paragraph (9) of subdivision (c) of Section 25113